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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of Sections 3(n) and)
332 of the Communications Act)

Regulatory Treatment of)
Mobile Services)

GN Docket No. 93-252

COMMENTS OF COMCAST CORPORATION

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SUMMARY

This proceeding provides the Commission with the opportunity to encourage full and fair radio based competition to the local exchange. The Commission should exercise its full authority over interconnection to the public switched telephone networks ("PSTN") of the local exchange companies ("LECs") and enunciate a strong interconnection policy that can be effectively enforced. At a minimum, the Commission's commercial mobile services ("CMS") LEC interconnection policy should include the following: (1) unbundling of LEC PSTN networks with cost-based rate elements; (2) structural safeguards for LEC affiliates providing CMS; (3) LEC non-discrimination with respect to CMS participation and notification of new network services; (4) unconditional resale and reuse of LEC services; and (5) full recovery of interconnection costs from LEC-affiliated CMS customers. To provide an effective incentive for full LEC compliance with this interconnection policy, the Commission should condition the license of each LEC-affiliated CMS provider.

Because the CMS market is competitive, the Commission should forbear from application of Title II regulation. However, the danger of anti-competitive conduct requires that the Commission impose a separate subsidiary requirement on all LEC-affiliated CMS providers. The Commission should not impose an equal access obligation on non-LEC affiliated CMS providers because there would be little benefit to the public and the ability of independent CMS providers to compete effectively and offer their customers technically advanced intelligent network services will be harmed.

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COMMENTS OF COMCAST CORPORATION

COMCAST CORPORATION ("Comcast"), by its attorneys, hereby submits comments to the Commission's Notice of Proposed Rule Making (the "*Notice*") on the regulatory treatment of mobile services. Comcast is a diversified telecommunications company with interests in both common carrier radio and private radio mobile service providers. Comcast supports the Commission's proposals in the *Notice* and strongly urges the Commission, as part of its implementation of revised Section 332 of the Communications Act of 1934, as amended (the "Act"), to expand its oversight of local exchange interconnection.

I. Introduction

Comcast is a diversified telecommunications company holding interests in cable television, wireless telecommunications and competitive access providers ("CAPs"). Comcast's commercial mobile services ("CMS") interests include common carrier and private radio systems. Comcast's wholly-owned cellular subsidiary is the fifth largest non-Bell Operating Company ("BOC") controlled cellular operator in the United States, serving a population of over 7.3

million.^{1/} In addition, another wholly-owned subsidiary of Comcast is experimenting with PCS and has participated extensively in the Commission's PCS pioneer preference and rulemaking proceedings. Comcast's commitment to the development and integration of new communications technologies and the provision of viable, low-cost competition to existing networks also is evidenced by its early investment in Nextel Communications, Inc., which holds licenses for SMR and Enhanced SMR ("ESMR") systems and provides dispatch, interconnect and related services to its customers.^{2/}

While Comcast's varied mobile telecommunications services operations and investments make evident Comcast's interest in this proceeding, Comcast's experiences in the ownership, operation and investment in cable, competitive access and wireless telecommunications, both nationally and internationally, provide it with a unique perspective on the existing potential for integration of broadband cable, wireless and CAP services. For example, Comcast, along with equipment manufacturers, is designing and testing the

1/ Comcast's cellular systems operate in the Philadelphia, Pennsylvania MSA; the New Brunswick-Perth Amboy-Sayreville, New Jersey MSA; the Wilmington, Delaware MSA; the Long Branch-Asbury Park, New Jersey MSA; the Trenton, New Jersey MSA; the Delaware 1 - Kent RSA; the New Jersey 1 - Hunterdon RSA; the Aurora/Elgin, Illinois MSA; and the Joliet, Illinois MSA.

2/ Nextel conceptualized and is implementing ESMR systems using digital mobile communications systems that incorporate innovative technologies to increase dramatically the capacity, service flexibility and quality of existing communications systems. Nextel initiated the nation's first ESMR system in Los Angeles in August of this year.

equipment necessary to achieve the cable/PCS interface and cable/cellular interface integral to the introduction and operation of an efficient, flexible and competitive PCS service.^{3/} Through its cellular companies, Comcast is integrating cellular and local competitive access facilities through its offering of QuickLink[®], a service that permits cellular customers direct access to their company's private branch exchange without interconnection through local exchange carrier ("LEC") facilities and is currently conducting a trial of an advanced personal numbering service with Sprint and BellSouth.^{4/}

The integration of these services is being brought about by advances in technologies, consumer demand and economic efficiencies. While there are often distinguishing characteristics to the various mobile telecommunications services that may warrant disparate regulation, more often those characteristics are vestiges of artificial regulatory constructs from another era. Congress has recognized this problem, and the Commission has instigated this proceeding to establish commonality in the treatment of similar commercial mobile services.

On the whole, Comcast supports the proposals contained in the *Notice*, in particular the tentative decisions to forebear from application of certain

^{3/} See *Amendment of the Commission's Rules to Establish New Personal Communications Services*, GEN Docket 90-314, Request for Award of Pioneer Preference filed by Comcast PCS Communications, Inc. on May 4, 1992 at 6-22; Comments of Comcast PCS Communications, Inc. filed on January 29, 1993 at 4-7.

^{4/} See *infra* at 17 n. 24.

portions of Title II of the Act on CMS providers. However, Comcast cautions that the goal of "parity" in treatment does not necessarily dictate identical treatment, and that real world distinctions between services and service providers (such as the methods and history of licensing, relative size and contiguity of markets, and availability of unencumbered spectrum) should not be lightly dismissed in order to satisfy the interests of larger and better financed incumbents.

Most important, Comcast believes that the new legislative framework presents a prime opportunity for the Commission to exercise fully its authority over interconnection to the local exchange network and to ensure the competitive viability of CMS. Comcast also believes that, in addition to examining the regulatory issues presented in this proceeding, the Commission must undertake a reexamination of technical service rules in order to eliminate unnecessary disparate treatment among CMS providers.

II. Commission Authority Over Interconnection of CMS and Private Services to the Bottleneck LEC Switched Networks Should Be Reassessed and Inconsistent State Interconnection Regulation Preempted.

The Commission has long recognized that a basic requirement for competition is the development of federal and state policies requiring expanded availability of unbundled, cost based access to the public switched telephone

network (the "PSTN").^{5/} Unbundled access permits competing carriers to pay only for those services they genuinely need and cost based rates for interconnection ensures that competing carriers are not paying for disguised LEC cross-subsidies in a manner that prevents potential competitors from becoming competitors. Comcast submits that these requirements apply with equal force to the PSTN interconnection to CMS providers. A strong interconnection policy that can be enforced will encourage development of radio based local competition.

A. Strong Interconnection Policies Will Encourage Radio Based Local Competition.

The *Notice* proposes to extend current cellular and paging interconnection policies to CMS. *Notice* at ¶ 71 ("[w]e see no distinction between the previously established interconnection rights of Part 22 licensees and those of commercial mobile service providers"); *Notice* at ¶ 73 (the Commission proposes that PCS providers should "be entitled to secure interconnection from [LECs] that is reasonable for the particular PCS system and no less favorable than offered to any other customer or carrier").

^{5/} See, generally, *Expanded Interconnection with Local Telephone Company Facilities, Report and Order and Notice of Proposed Rulemaking*, 7 FCC Rcd 7369 (1992); *Second Report and Order and Third Notice of Proposed Rulemaking*, FCC 93-379 (rel. Sept. 2, 1993). See also *The Need to Promote Competition and Efficient Use of Spectrum*, 59 R.R.2d 1275, 1283 (1986) (Policy Statement on Interconnection of Cellular Systems) *aff'd on recon.* 2 FCC Rcd 2910, 2913 (1987) (asserting plenary authority over physical interconnection for all public mobile services); *aff'd on recon.* 4 FCC Rcd 2369 (1989).

Comcast submits that this bare minimum is insufficient to permit CMS carriers to develop as carriers able to provide intermodal competition to the landline exchange. The experiences of the wireless industry in negotiating fair and reasonable cellular interconnection agreements highlight the need to change an inadequate status quo.^{6/} The lack of access, or delayed or potentially discriminatory access, to the advanced networks and architectures of the LECs has hampered the growth of wireless competition to the local loop, and will become an increasing problem as CMS providers attempt to meet consumer demand and to distinguish their services.^{7/}

The Commission should adopt an aggressive interconnection policy that ensures cost based interconnection to all advanced LEC services on fair terms for all CMS providers. Essentially, current cellular interconnection policy

^{6/} See, e.g., *The Need to Promote Competition and Efficient Use of Spectrum*, 4 FCC Rcd 2369, 2370 (1989) ("[i]n the record at that time, the evidence showed that on occasion landline companies had failed to negotiate in good faith"). Indeed, as the telecommunications networks become increasingly sophisticated, Commission policies will have to ensure that not only is there fair and reasonable physical interconnection but also that there is full access to LEC databases and intelligent network services. *Intelligent Networks, Notice of Proposed Rulemaking*, FCC No. 93-380 at ¶ 18 (rel. Aug. 31, 1993) ("we believe that without regulatory initiative, [intelligent networks] may not evolve in an open manner . . . [w]e are concerned that LECs have been resistant to open network policies and that existing market incentives may not alone be sufficient to induce LECs to open their networks to potential competitors").

^{7/} Comcast notes that even CTIA, whose membership is predominantly BOC affiliates, has recently created an interconnection working committee in recognition of the importance of making advanced intelligent network functions generally available to wireless service providers.

only requires that the LEC provide the same terms and rates to an unaffiliated cellular carrier that it provides to an affiliated carrier. Even on its own terms, and certainly in practice, this approach permits the LEC to first establish the rates and terms and conditions of service either in concert with or with only a modicum of resistance from its wireless affiliate. In either event, the unaffiliated carrier is removed from the process and left to accept whatever rates and conditions of service the affiliates establish. This is a particular problem where the network architectures of carriers differ, inevitably disadvantaging the non-affiliate.^{8/}

In addition, even though the LEC affiliated carrier has to pay the "same" rates under the current approach, only the unaffiliated competitor is harmed financially. An unaffiliated carrier must recoup the cost from its customers. The cost to the LEC affiliated cellular carrier, however, is a pocket-to-pocket intra-corporate transfer that does not have to be recouped from cellular customers. In addition, the LECs favor their cellular affiliates by giving them

^{8/} For example, as discussed in footnotes 9 and 24 *infra*, the BOCs naturally favor their own affiliates when developing new services such as personal numbering services. Where different network architectures are used by competing CMS providers, the BOCs can advantage their affiliate by adapting the new service to their affiliate's architecture first.

advanced notification about planned network changes.^{9/} The Commission should put an end to LEC anti-competitive conduct by adopting stronger measures.^{10/}

While at first glance the PCS interconnection requirements appear to provide PCS licensees with potentially broader interconnection rights, in reality the same problems that have plagued cellular interconnection will plague PCS in the absence of stronger, more direct action by the Commission on PSTN interconnection. In fact, those problems will be even more exacerbated given the speed with which wireless technologies are developing and the direction towards more consumer choice; which in turn requires greater intelligence, integration and interaction among networks. Therefore, Comcast submits that the Commission

9/ Comcast was offered an opportunity to participate in Bell Atlantic's Philadelphia trial of its personal numbering service ("PNS") on very short notice; Comcast was asked to commit to testing PNS only two weeks after the first full presentation of the trial to Comcast and just five days after Comcast's initial meeting with Bell Atlantic representatives concerning the trial. Comcast's competitor, Bell Atlantic's wireless affiliate, was then operating a PNS trial in Pittsburgh, and purportedly was presented with the Philadelphia trial opportunity at the same time as Comcast. Even if this is true with respect to Philadelphia market, having had prior experience with the trial gave Bell Atlantic's affiliate an advantage in evaluating the proposal.

10/ The *Notice* requests comment on the definition of "consumer" with respect to the test for forbearance from Title II regulation for CMS. *Notice* at ¶ 60. The "consumer" for CMS is the end user of the mobile service, that is, the general public. However, with respect to interconnection to the local exchange for the CMS provider the consumer could be the end user of the mobile service, the CMS provider or both. In the end, the general public will pay for the uneconomic pricing of CMS interconnection, either through higher bills from a CMS provider or as a captive to the LEC because of the lack of a competitive alternative.

should adopt the following as the basic principles of its CMS LEC interconnection policy:

1. LEC PSTN networks must be unbundled and the rates for each element must be just and reasonable and reflect the direct costs of providing the function;
2. CMS provided by a LEC affiliate must be provided through a subsidiary separate from the landline LEC and effective non-discrimination requirements must be formulated;
3. LECs must provide uniform advance notification of changes to the LEC network and solicit participation in decisions that affect interconnection and new service functions;
4. There must be no restriction on resale or reuse of LEC tariffed or contract services provided to all CMS providers; and
5. To ensure that LEC-affiliated CMS providers cannot capitalize on their relationships with the local bottleneck, LEC affiliates should be required to charge separately their end users an amount not less than the full cost of the basic service components for such services to non-affiliates.^{11/}

Finally, even if the Commission were to adopt all of these requirements in its CMS interconnection policy, LEC interconnection abuses

^{11/} Pennsylvania enacted a similar requirement this year by adding a new chapter authorizing an alternative form of regulation of telecommunications services. See 66 Pa. Cons. Stat. § 3005(E)(2) ("[t]he price which a local exchange telecommunications company charges for a competitive service shall not be less than the rates charged to others for any basic service functions used by the local exchange telecommunications company or its affiliates to provide the competitive service . . . [r]evenues from the rates for access services reflected in the price of competitive services shall be included in the total revenues produced by the noncompetitive services").

would not cease unless the Commission policy could be effectively enforced.^{12/} The only enforcement mechanism that will succeed without placing an onerous oversight responsibility on the Commission staff is to condition all the CMS licenses of LEC affiliates. The condition should state that the failure to abide by Commission interconnection policies and regulations will result in revocation of the license. The threat of losing a license is a great deterrent. Under this threat, the LECs will be more likely to seek ways to abide by the spirit and terms of the Commission's pro-competitive interconnection policies.

B. Uniformity of Federal and State Interconnection Policies Is Important for Fair Interconnection.

In passing Section 6002(c)(3)(A) of the Budget Act, which preempts state rate and entry regulation of CMS and private mobile radio, Congress recognized the potential for CMS not only to foster competition among various mobile service providers and the local bottleneck, but also its potential to develop as an integral component of the national telecommunications landscape. Rather than continue to permit state public service commissions to regulate competitive mobile services, Congress provided that the Commission establish a future

^{12/} The LECs have fought the fair implementation of the Commission's cellular interconnection policies from the outset, in spite of repeated intervention by the Commission. It is a measure of the overwhelming control landline carriers have over cellular carriers that an obviously fair requirement such as reciprocal compensation has never been successfully enforced. See *The Need to Promote Competition and Efficient Use of Spectrum*, 2 FCC Rcd 2910 (1987) *aff'd on recon.* 4 FCC Rcd 2369 (1989).

regulatory structure for CMS that is both uniform and national in scope. While doing so, the Commission should take action to ensure that the rates, terms and conditions for interconnection and other access to the networks of the LECs are unbundled and are fair by asserting its full authority over interconnection.^{13/}

For example, the Commission issued rules to license PCS on an MTA basis. MTAs are, for the most part, interstate markets subject to Commission authority.^{14/} Comcast submits that the Commission should assume its full authority over interstate interconnection.

Comcast does not believe it would be necessary for the Commission to require LECs to file both interstate and intrastate interconnection tariffs with the Commission to effect this change. The Commission should, however, order LECs to submit sufficient information, such as intrastate interconnection tariffs and all contracts for interconnection and for billing and collection, to ensure that

^{13/} The Budget Act neither limits nor expands the Commission's authority to order interconnection. 47 U.S.C. § 332(c)(1)(B). Under Section 201 of the Act, the Commission has the authority to order the provision of physical interconnection on just and reasonable rates and terms. If CMS is ever to become an effective competitor to the local exchange, the Commission must ensure the uniform availability of interconnection and other network services on just and reasonable terms.

^{14/} Section 221(b) of the Act removes telephone exchange service from Commission authority even if the exchange market includes portions of two states. MTAs are much larger than *any* local exchange area, and, therefore, Section 221(b) cannot be read to remove the rates and terms of telephone service offered by a CMS provider on an MTA basis (and potentially, BTA basis) from the Commission's authority.

there is no discrimination. In this manner the Commission and CMS providers could directly review relevant information to determine that intrastate interconnection rates are not frustrating the federal policy.^{15/}

III. Market Conditions Justify Forbearance from Title II Regulations and Requirements.

Comcast supports the Commission's conclusion that market conditions justify forbearance from many Title II regulations and requirements. Markets that are subject to effective competition should not be regulated as pervasively as markets that are not competitive. Thus, the Commission should place competitive safeguards on LEC-affiliated CMS providers because of the potential to leverage the LEC's monopoly control over the local exchange bottleneck, but should not impose unnecessary Title II requirements on CMS providers. Nor should the Commission impose equal access requirements on an industry that will provide more than enough consumer choice in a variety of areas, including interexchange carriage, albeit in a different form.^{16/}

^{15/} The Commission has had experience in its Open Network Architecture implementation with making available to the public information regarding intrastate ONA tariff filings.

^{16/} See *infra* at 17 n. 23 and 24.

A. Forbearance from Regulation Is Warranted in Competitive Markets.

The *Notice* concludes that the level of competition within the CMS market is sufficient to forbear from application of tariff and rate regulation. *Notice* at ¶¶ 62, 65. Comcast agrees. The availability of CMS from multiple providers, both LEC affiliated and non-affiliated, will protect the public interest against unjust or unreasonable charges and practices. In some markets there could be more than ten CMS providers and in no market should there be less than two.^{17/} Tariff and rate regulation, therefore, is not required for CMS and would merely exhaust Commission resources without purpose if it were put in place. In the few instances where market forces may be insufficient to protect the public, the substantive obligations of Title II of the Act, Sections 201-203 of the Act, in conjunction with the Commission's complaint processes should provide adequate protection and redress.^{18/}

^{17/} Assuming at least two cellular systems in each market, it would not be unreasonable that the largest markets, such as New York and Los Angeles, may have two MTA broadband PCS licensees, at least one non-cellular-affiliated BTA licensee, an ESMR system, a national narrowband PCS licensee, a regional narrowband PCS licensee, mobile satellite and numerous national and regional paging systems. With the addition of a few niche or internal business and customized mobile systems, including standard SMR, market forces may make CMS the most competitive telecommunications industry.

^{18/} The threat of swift Commission action against possible violators of the substantive obligations of Title II is more credible now that the Commission has streamlined the complaint process. *See Amendment of Rules Governing Procedures to Be Followed When Formal Complaints Are Filed Against Common Carriers, Report and Order*, 8 FCC Rcd 2614 (1993).

In contrast, the local exchange on which all CMS providers depend for interconnection is still dominated by one bottleneck carrier. Recognizing this fact, the *Notice* requests comment on whether the Commission should impose additional competitive safeguards on CMS providers affiliated with a dominant carrier. *Notice* at ¶ 64. To ensure the development of full and fair interconnection that will support the development of local exchange competition, the Commission must apply additional competitive safeguards to the CMS and private radio affiliates of LECs.

Commission imposed safeguards are required for the markets where effective competition does not exist, such as access to the local exchange. Effective competition will exist only when all of the services provided by the LEC are available to all potential customers from a competing source. A basic competitive safeguard that must be applied to LEC and LEC-affiliated provision of CMS is creation of separate subsidiaries. Structural separation and other competitive safeguards will remain necessary for so long as the core LEC markets are not subject to effective competition.

The Commission need only turn to LEC implementation of expanded interconnection for a demonstration of the need for enhanced Commission oversight of anti-competitive setting of rates for services provided to

other potentially competitive carriers.^{19/} During the last two weeks of October, the Commission released two orders highlighting the danger of inadequate oversight of LEC affiliate transactions.^{20/} Structural separation is the best and most adequate safeguard required for LEC participation in CMS. However, structural separation alone is not sufficient. As Comcast previously observed, the Commission must assert its present authority over LEC interconnection to ensure CMS providers have the opportunity to develop to their competitive potential.

**B. No Equal Access Obligation Should Be Imposed on
Non-BOC Affiliated CMS Providers.**

The *Notice* requests comment on whether all CMS providers should be subject to an equal access obligation for interexchange service. *Notice* ¶ 71.

^{19/} See generally *Ameritech Operating Companies*, Transmittal Nos. 697, et al., 8 FCC Rcd 4589 (Com. Carr. Bur. 1993); *Order Designating Issues for Investigation*, CC Docket No. 93-162, DA 93-951 (rel. July 23, 1993). Indeed, the comments filed in these proceedings graphically illustrate the BOCs' unwillingness to support the development of local exchange competition through the BOCs' filing of blatantly non-cost based tariffs.

^{20/} See *BellSouth Corporation*, FCC 93-487, AAD 93-127 (rel. Oct. 29, 1993) (Commissioner Barrett concurring in the denial of confidential treatment to a summary of an audit report that found violations of the Commission's affiliate transaction rules during the years 1984-1990). Additionally, the Commission has commenced an action to strengthen its affiliate transaction rules. See *Amendment of Parts 32 and 64 of the Commission's Rules to Account for Transactions between Carriers and Their Nonregulated Affiliates*, Notice of Proposed Rule Making, CC Docket No. 93-251, FCC 93-453, ¶ 1 (rel. Oct. 20, 1993) ("[w]e propose to amend those rules to enhance our ability to keep carriers from imposing the costs of nonregulated activities on interstate ratepayers and to keep ratepayers from being harmed by carrier imprudence").

Unlike LEC monopoly control over access to the local exchange, the interexchange market for CMS is competitive. It would be fundamentally wrong to impose an equal access obligation on a CMS provider that is not affiliated with a bottleneck monopolist.

Equal access for interexchange services should not be adopted for independent cellular carriers or for CMS providers not affiliated with a LEC.^{21/} First and foremost, the equal access obligation imposed on BOC cellular affiliates is justified by their monopoly control over access to the local exchange. Neither MCI nor the BOCs have established that non-LEC CMS operators have *any* monopoly bottleneck control over the PSTN. Second, the presence of BOC affiliated CMS providers ensures that consumers who truly desire a choice among wireless interexchange carriers have one. And if consumer demand was significant enough, the few non-BOC affiliated carriers remaining would certainly find ways in which to provide that access to its subscribers. Third, the cost to unaffiliated service providers of providing equal access would not be commensurate with any public benefit, particularly in light of the lack of public demand and AT&T/McCaw's expressed interest in offering equal access in its

^{21/} The *Notice* specifically refers to the Petition for Rule Making filed by MCI. See MCI Telecommunications Corporation, Policies and Rules Pertaining to Equal Access Obligations of Cellular Licensees, Petition for Rule Making, RM-8012, filed June 2, 1992 (the "MCI Petition"). Comcast filed comments opposing the MCI Petition. See Opposition of Comcast Cellular Communications, Inc., filed on September 2, 1992. Comcast's arguments against the MCI Petition apply with equal or greater force to CMS.

cellular markets.^{22/} Fourth, an equal access requirement would halt the current price and service competition for interexchange traffic generated by independent CMS providers,^{23/} and would end any current arrangements that have developed where new services are provided to the CMS end user.^{24/}

^{22/} Even in their revised proposed order for general mobile relief from the MFJ, the BOCs admit that their "competitive" concerns would be alleviated if the combined AT&T/McCaw entity were to be subject to the same equal access rules as the BOCs. Letter of Michael K. Kellogg, Esq. to Chief, Communications and Finance Section of the Antitrust Division, Department of Justice at 2 (Sept. 24, 1993).

^{23/} For example, Comcast has provided its customers with unique benefits and choices, albeit in a different form than simply providing a selection of interexchange carriers. Comcast's cellular subsidiaries have purchased interexchange services in bulk enabling it, in turn, to offer its customers free unlimited long distance calling on weekends. By offering these toll-free services (the customer pays only for cellular airtime), Comcast is better able to compete with its LEC affiliated cellular counterparts, which due to the size and scope of its contiguous markets may be otherwise better positioned to offer special services. No one should expect, or even desire, that multiple competitors have the same offerings. The only concern should be whether the market, taking into account the size and nature of licensed areas, adequately promotes and ensures competitive offerings among CMS providers.

^{24/} For example, Comcast is currently participating in a personal numbering service trial involving Sprint and BellSouth. Comcast's ability to participate in that trial was directly related to its negotiation with Sprint to provide interexchange services, and Comcast's review of prospective interexchange relationships was directly tied to the access those interexchange carriers offered to advanced innovative technologies of the kind developed by BellSouth and Sprint. Because Comcast was able to negotiate with Sprint for Comcast's seven million potential customers, Sprint was willing to make its advanced network services available to Comcast. Without that ability, independents like Comcast could very well be shut out from the intelligent network. The BOC's wireless affiliates are not similarly disadvantaged: first, due to their natural inclination to their affiliated-LEC's products; and, second, due to their market size and scope which creates bargaining leverage that the non-BOC, non-AT&T affiliated carriers do not have.

There are additional reasons not to impose an equal access obligation on non-LEC affiliated CMS providers. The CMS market likely will not develop as a single local calling area but will splinter by provider among the relevant market boundaries, including the MTA, regional, LATA, BTA and metropolitan area boundaries. A CMS provider's primary market will vary according to the types of services provided and competitive imperatives. No simple rule for interexchange equal access could be applied that would account for all possible variations. Moreover, the customers of CMS providers will have the opportunity to select among a large number of service providers, all of whom will have an incentive to provide interexchange service and access in an economical and customer friendly manner. Imposition of an equal access requirement would solve a problem that simply does not exist.

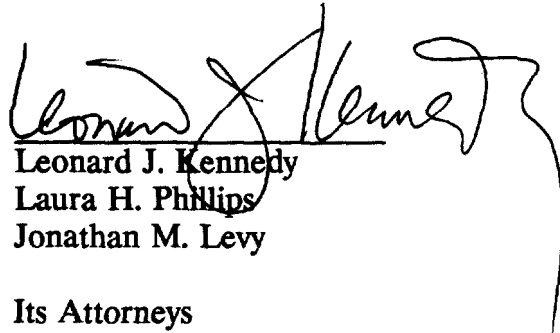
The *Notice* correctly recognizes that the CMS market is vibrant and will continue to grow and develop and that appropriate Commission policies can substantively aid this process. The Commission should forbear from application of most Title II provisions on CMS providers and likewise not impose new interexchange equal access obligations on non-BOC CMS providers. Interconnection to the local exchange, however, is still a LEC controlled monopoly. The Commission should ensure full and fair competition in CMS by requiring LECs to provide CMS through separate subsidiaries and imposing other competitive safeguards.

IV. Conclusion

Comcast strongly supports the Commission's initiative to establish regulatory parity for CMS. The Commission should not turn away, however, from the opportunity to create competitive parity among all CMS providers. By adopting a strong CMS interconnection policy that can be effectively enforced, the Commission could make it possible for independent CMS providers to compete on fair terms with the LEC and its affiliates. Moreover, the initiation of cost-based interconnection would begin the realization of the long awaited promise of radio based competition to the local exchange.

Respectfully submitted,

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